

In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 22-13951

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JASON JAMES NEIHEISEL,

Petitioner-Appellant,

*versus*

UNITED STATES OF AMERICA,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Middle District of Florida  
D.C. Docket No. 3:20-cv-00313-BJD-JBT

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## ORDER:

Jason Neiheisel, a federal prisoner, has filed motions for a certificate of appealability (COA) and leave to proceed *in forma pau-peris* (IFP), so that he may appeal the denial of his 28 U.S.C. § 2255 motion. In order to obtain a COA, a movant must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The movant must show that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong” or that the issues “deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Review of the record reflects that reasonable jurists would debate the district court’s denial of Neiheisel’s § 2255 motion, with regard to two claims, and that he is indigent. *See Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305, 1307 (11th Cir. 2004). Accordingly, his motion for IFP is GRANTED and his motion for a COA is GRANTED as to these two issues:

- (1) Whether the district court erred in finding that Neiheisel was not prejudiced by counsel’s failure to introduce evidence that Neiheisel’s work laptop contained no child pornography; and, if so, whether the district court erred also in denying Neiheisel’s claim that counsel was ineffective for failing to seek expert review of that computer; and
- (2) Whether the district court erred in finding that counsel was not ineffective for failing to seek inspec-

tion of, or discovery related to, specialized government software used at trial to show that child pornography was distributed from Neiheisel's home internet network.

/s/ Britt C. Grant

UNITED STATES CIRCUIT JUDGE